

111TH CONGRESS
2D SESSION

S. 3546

To create a penalty for automobile insurance fraud, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2010

Mr. SCHUMER introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To create a penalty for automobile insurance fraud, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cheaper Car Insurance
5 Act of 2010”.

6 **SEC. 2. AUTOMOBILE INSURANCE FRAUD.**

7 (a) IN GENERAL.—Chapter 47 of title 18, United
8 States Code, is amended by inserting at the end the fol-
9 lowing:

10 **“SEC. 1041. AUTOMOBILE INSURANCE FRAUD.**

11 “(a) IN GENERAL.—

1 “(1) Whoever knowingly commits automobile
2 insurance fraud shall be punished as provided in
3 subsection (b).

4 “(2) Whoever knowingly acts as a runner, cap-
5 per, or steerer shall be punished as provided in sub-
6 section (b).

7 “(3) Whoever knowingly acts as an organizer of
8 an auto insurance fraud operation shall be punished
9 as provided in subsection (b).

10 “(4) Whoever knowingly acts as a mastermind
11 or leader of an auto insurance fraud operation shall
12 be punished as provided in subsection (b).

13 “(b) PENALTIES.—The punishment for an offense
14 under subsection (a) shall be as follows:

15 “(1) For any violation of subsection (a)(1) in
16 which the defendant is not also convicted of being a
17 runner, capper, or steerer under subsection (a)(2),
18 an organizer under subsection (a)(3), or a leader or
19 master mind under subsection (a)(4), such person
20 shall be fined not more than \$100,000, imprisoned
21 not more than 5 years, or both. If the defendant has
22 a prior conviction under subsection (a)(1), such per-
23 son shall be fined not more than \$100,000, impris-
24 oned not more than 10 years, or both.

1 “(2) For any violation of subsection (a)(2),
 2 such person shall be fined not more than \$100,000,
 3 imprisoned not more than 5 years, or both.

4 “(3) For any violation of subsection (a)(3),
 5 such person shall be fined not more than \$100,000,
 6 imprisoned not more than 10 years, or both.

7 “(4) For any violation of subsection (a)(4),
 8 such person shall be fined not more than \$100,000,
 9 imprisoned not more than 15 years, or both.

10 “(c) INCREASED FINE.—If a violation of subsection
 11 (a) results in costs that exceed \$100,000, the fine imposed
 12 under subsection (b) may be in an amount greater than
 13 \$100,000 in order to cover the resulting cost.

14 “(d) DEFINITIONS.—In this section—

15 “(1) the term ‘automobile insurance fraud’
 16 means fraud committed by any person who know-
 17 ingly and intentionally presents a written statement
 18 or claim, causes a written statement or claim to be
 19 presented, or prepares a written statement or claim
 20 with knowledge or belief that it will be presented to
 21 or by an insurer, self-insurer, or any agent thereof,
 22 that such person knows—

23 “(A) contains materially false information
 24 concerning any fact material to an application,

1 certificate, evidence, or claim referred to in
2 paragraph (2); or

3 “(B) conceals, for the purpose of mis-
4 leading, information concerning any fact mate-
5 rial to an application, certificate, evidence, or
6 claim referred to in paragraph (2);

7 “(2) the term ‘mastermind’ or ‘leader’ means
8 any individual who knowingly solicits or employs 2
9 or more people, or conspires with 2 or more people,
10 to engage in automobile insurance fraud, and who is
11 not also a runner, capper, steerer, or an organizer;

12 “(3) the term ‘organizer’ means any individual
13 who knowingly solicits or employs a runner, capper,
14 or steerer, or acts as a runner, capper, or steerer,
15 with the intent of seeking to falsely or fraudulently
16 obtain benefits under a contract of insurance, or to
17 falsely or fraudulently assert a claim against an in-
18 sured or an insurer for providing services to a client,
19 patient, or customer;

20 “(4) the term ‘runner, capper, or steerer’
21 means any person who, for either direct or indirect
22 pecuniary benefit, knowingly procures or attempts to
23 procure a client, patient, or customer at the direc-
24 tion of, or in cooperation with, a person committing
25 automobile insurance fraud under subsection (a), re-

1 regardless of whether or not the person otherwise par-
 2 ticipates in the fraud; and

3 “(5) the term ‘written statement or claim’
 4 means a written statement or submission by tele-
 5 phone, computer, or in any other electronic or digital
 6 form, that is part of, or in support of—

7 “(A) an application for the issuance of or
 8 the rating of a commercial insurance policy;

9 “(B) a certificate or evidence of self-insur-
 10 ance for commercial insurance or commercial
 11 self-insurance; or

12 “(C) a claim for payment or other benefit
 13 pursuant to an insurance policy or self-insur-
 14 ance program for commercial or personal insur-
 15 ance.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-
 17 ysis for chapter 47 of title 18, United States Code, is
 18 amended by adding at the end the following:

“1041. Automobile insurance fraud”.

19 **SEC. 3. BEST PRACTICES.**

20 (a) IN GENERAL.—The Department of Justice shall
 21 publish best practices for the States to use—

22 (1) in licensing auto body shops that perform
 23 work paid for by insurers; and

24 (2) in licensing medical treatment provided to
 25 people who are injured in automobile accidents.

1 (b) GOAL.—The goal of publishing best practices as
 2 required under subsection (a) is to encourage the States
 3 to adopt such practices to limit the feasibility of commit-
 4 ting insurance fraud.

5 **SEC. 4. INVESTIGATION OF FRAUDULENT PRACTICES.**

6 (a) IN GENERAL.—The Attorney General shall co-
 7 operate with the offices of the United States Attorneys
 8 to—

9 (1) aggressively investigate fraudulent chop
 10 shops and salvage yards;

11 (2) aggressively prosecute automobile insurance
 12 fraud (as defined in section 1041 of title 18, United
 13 States Code, as added by section 2); and

14 (3) report statistics on investigations, prosecu-
 15 tions, and convictions of automobile insurance fraud.

16 (b) REPORTING.—Statistics referred to in subsection
 17 (a)(3) shall be reported to the Committee on the Judiciary
 18 of the Senate and the appropriate Committee of the House
 19 of Representatives.

20 **SEC. 5. FEDERAL-STATE-LOCAL ANTI-AUTO INSURANCE**
 21 **TASK FORCE.**

22 (a) ESTABLISHMENT OF UNITS.—The Attorney Gen-
 23 eral shall establish Federal-State-Local Anti-Auto Insur-
 24 ance Fraud Task Forces in the offices of the United
 25 States Attorneys in the 10 cities in the United States that

1 are most severely affected, as determined by the Attorney
 2 General, by automobile insurance fraud (as defined in sec-
 3 tion 1041 of title 18, United States Code, as added by
 4 section 2).

5 (b) PURPOSE.—The special units established under
 6 subsection (a) shall investigate and prosecute automobile
 7 insurance fraud.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to carry out this section
 10 for fiscal year 2011, and each fiscal year thereafter, such
 11 sums as are necessary to carry out the provisions of this
 12 Act.

13 **SEC. 6. INSURANCE COMPANY RIGHT TO MANDATORY IN-**
 14 **SPECTION BEFORE INSURING.**

15 (a) RIGHT OF INSPECTION.—An insurance company
 16 shall have the right to require a mandatory inspection by
 17 an insurance company representative or agent of any
 18 motor vehicle prior to agreeing to provide insurance cov-
 19 erage, except as provided under subsection (b).

20 (b) EXEMPTION FROM PRE-INSURANCE INSPEC-
 21 TION.—The right to inspect under subsection (a) may be
 22 waived by an insurance company under the following cir-
 23 cumstances:

1 (1) The motor vehicle is already insured under
2 the policy for either comprehensive or collision cov-
3 erage.

4 (2) The motor vehicle is a new vehicle pur-
5 chased from a retail dealership, and the insurer is
6 provided with—

7 (A) a copy of the bill of sale containing a
8 full description of the motor vehicle, including
9 options and accessories, and a statement from
10 the seller that the motor vehicle has no damage;
11 or

12 (B) a copy of the Manufacturer Statement
13 of Origin, a statement from the seller that the
14 motor vehicle has no damage, and a copy of the
15 window sticker or dealer invoice containing a
16 full description of the motor vehicle, including
17 options or accessories.

18 (3) An insured named in the policy has been in-
19 sured by the same insurer for 1 or more policy years
20 under a policy that has continuously provided phys-
21 ical damage coverage.

22 (4) The motor vehicle is rented or leased for
23 less than 6 months, provided that the insurer is
24 given a copy of the lease or rental agreement, and
25 that the document contains a complete description of

1 the rented or leased motor vehicle, including its con-
2 dition at the time of lease or rental.

3 (5) The motor vehicle is rated or insured under
4 a commercial automobile insurance policy.

5 (6) When pre-insurance inspection would cause
6 serious hardship to the insured or applicant for in-
7 surance, and the hardship is documented in records
8 maintained by the insurer.

9 (c) NON-DISCRIMINATION OF PRE-INSURANCE IN-
10 SPECTIONS.—An insurer may require a pre-insurance in-
11 spection of an otherwise exempt motor vehicle. The deci-
12 sion to require a pre-insurance inspection of an exempt
13 vehicle shall not be based on the age, race, sex, religion,
14 or marital status of the applicant or insured, or the fact
15 that the motor vehicle has been insured through a residual
16 or non-voluntary insurance market.

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